IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8540 OF 2005

Parshuram Govinda Gunaware & anr. Applicants

versus

The State of Maharashtra Respondent

Mr.Rahul S. Kate for applicants.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 8th March 2006

PC :

1. Pursuant to the directions of the Hon'ble Chief Justice this application is placed before me.

2. The applicants are original accused nos.1 and 2 in C.R.No.103 of 2004 alleging offences punishable under sections 302, 323, 504, 506 r/w 34 IPC..

3. The applicants have been arrested on 2nd September 2004 in the subject C.R. along with other accused. They along with two others

preferred an application for bail being Criminal Miscellaneous Application No.268 of 2005 in the Session Court at Baramati. That application was rejected. On 18th October 2004 they preferred another application bearing No.306 of 2004 and the Session Court rejected the same.

4. A third application was made being Application No.329 of 2004 and as far as applicants are concerned, the same was rejected but other co-accused (2) were granted bail by the same order.

5. Another application was filed by the applicants after the case was committed to the Session Court and by an order dated 21st February 2005 the same was allowed.

6. Aggrieved by this order of the Trial Court, original complainant preferred Criminal Application No.3963 of 2005 and applied to this Court for cancellation of the bail.

7. Brother Justice Oka by a reasoned order delivered on 28th October 2005 was pleased to allow the application of the original complainant and cancelled the bail granted to the present

applicants. They surrendered before the Sessions Court on 21st November 2005 and are again in custody.

8. Criminal Application No.7581 of 2005 was preferred by the applicants praying for enlarging them on bail and the said application was placed before me on 29th November 2005 and after hearing Shri Kate appearing for the applicants, it was allowed to be withdrawn.

9. Pursuant to the order passed by me on 29th November 2005 this fresh application is directed to be heard by me.

10. With the assistance of Shri Kate I have perused the application and the annexures thereto. I have perused the order passed by Justice Oak which not only cancels the bail on account of lack of any material about changed circumstances but also on merits. Prima facie, the complaint, which is made by the complainant Raosaheb, clearly shows that the applicants who are son and father, came armed with weapons described in the complaint and assaulted the deceased. The complaint narrates as to how the applicants have assaulted the deceased and

attributes specific acts as also names the weapons in their possession. This material has been considered by this Court while cancelling the bail granted to the applicants earlier. It will not be proper on my part to again consider the same pleas. More so, when the order of this Court cancelling the bail of these applicants has become final. Apart from this, the observation of this Court that the applicants should have approached this Court for enlarging them on bail and not the Trial Court, is not enough to persuade me to release them on bail. The materials which are now relied upon were also before me when the earlier application was heard for some time and thereafter allowed to be withdrawn.

11. In the aforesaid circumstances, this is not a fit case for enlarging the applicants on bail. Criminal Application stands dismissed. However, considering the fact that applicant no.2 is aged 65 years, the Trial Court to endeavour and dispose of the case expeditiously.

(S.C.DHARMADHIKARI, J.)